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Marketing Theory and the Fencing of Stolen Goods*

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The prevention of theft in an increasingly urbanized society is a continuing challenge to law enforcement personnel. The authors of this article take an interdisciplinary approach to the problem, and suggest the use of conventional marketing theory in detecting and preventing the sale of stolen goods in order to reduce the incentive of thieves to steal. Although the authors' approach is novel and somewhat unique, if effective implementing techniques could be developed, its use could have dramatic preventive consequences, and therefore merits attention.

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INTRODUCTION

FOR some time, psychologists have studied the criminal as an individual, inquiring into his motivation, attitudes, and personality. These studies have led to advances in the areas of rehabilitation, deterrence, and, occasionally, investigation. Sociologists have treated crime as an anomaly of social structure and have studied, among other topics, the social organization of gangs, the impact of crime on social values, and the social factors leading to a criminal career.

In contrast, the approach of this study is to visualize the distribution of stolen goods as a business and marketing problem. An underlying concept of this article is that professional crime — especially that dealing with property — is organized on an economic basis rather than entirely on a sociological or psychological one. Fences and thieves face substantial marketing problems which may be solved by the application of the same marketing management techniques used by legitimate businessmen.

There is a body of marketing knowledge available for describing and predicting the behavior of persons involved in the legitimate distribution of goods. If there is any commonality of behavior between legitimate and criminal marketing, this knowledge may be utilized in predicting the behavior of thieves and fences, and for developing more effective strategies to block and investigate such behavior.

I. BACKGROUND

A. *Marketing Defined*

In the conventional view, marketing is defined as "the performance of business activities that direct the flow of goods and services from producer to consumer or user."[1] This definition gives some justification for viewing the theft of goods as "production" and the fencing of goods as "marketing." However, a broader definition is often used to give more specific direction to the persons charged with performing the marketing functions. Thus, "[m]arketing is a total system of interacting business activities designed to plan, price, promote, and distribute want-satisfying products and services to present and potential users."[2] This definition assumes that much of the behavior related to the distribution of stolen goods consists of rational, economically guided decisions. It also indicates that such distribution requires conscious effort and decision-making by the thief and fence.

In the present context, marketing refers to all the activities performed and the treatment given to stolen property between the time it is stolen and the time it is eventually consumed. Thus, a study of the marketing of stolen goods would include transactions between thief and fence, the amount and kind of demand for stolen property, prices received for stolen property, promotion techniques, behavior of middlemen, buying motives and habits of the consumer of stolen goods, and many other related topics.

B. *Structure and Objectives*

In this study,[3] an effort is made to determine the feasibility of using conventional marketing theory as an operational scheme for visualizing the traffic in stolen goods. This approach is by no means definitive, but provides a supplementary method by which to analyze the traffic in stolen goods.

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1 COMMITTEE ON DEFINITIONS, AMERICAN MARKETING ASSOCIATION, MARKETING DEFINITIONS 15 (1960) [hereinafter cited as MARKETING DEFINITIONS].

2 W. STANTON, FUNDAMENTALS OF MARKETING 5 (1964).

3 The underlying thought in designing a research approach was that this was to be an exploratory project, investigating only the *feasibility* of applying marketing theory to a new problem area. It was necessary for researchers knowledgeable in marketing to become familiar with some of the practices of thieves and fences as well as with some of the problems and practices of law enforcement.

Thus, the general research approach was as follows:

(1) Interview a sampling of thieves and fences to become workably familiar with the distribution of stolen goods.

(2) Select illustrative marketing theories seemingly most descriptive of the behavior of thieves and fences, and adapt them to fit instances uncovered during the interviews.

(3) Interview a sampling of law enforcement personnel to determine the problems they face and whether new ways of thinking would add to their investigative or deterring power.

Specific interviews will not be cited in this article.

Psychological factors may be very influential in decisionmaking by criminals with regard to property-related crimes. For instance, one person interviewed during the study simply could not accommodate the face-to-face contact required for some forms of thievery and restricted his activity to burglary and larceny for personality reasons. However, economic criteria are also relevant in this decisionmaking. For example, several interviewees preferred to steal jewelry and furs instead of larger chattels due to the lower risks involved, the ease of storage, high rates of turnover, and high markup. These reasons are marketing oriented, not psychological.

To visualize the professional, organized distribution of stolen property in the context of a businesslike operation, one must divide the criminal activity into two areas which represent two types of problems faced by many legitimate businesses: one, the *production* of stolen property as a result of some type of theft; and two, the *marketing or distribution* of stolen property carried out by thieves, fences, and other middlemen. The production side has been examined extensively, resulting in new kinds of alarms, locks, security devices, and theft-detection systems. However, the distribution aspect has been relatively untouched by formal research. In order to study the marketing side, one must assume that the distribution of stolen property is rather businesslike, perhaps far more so than production, and that many patterns of behavior in distribution are *economically* motivated.

The objective of this article is to discuss the following questions:

(1) Are professional thieves and fences in any way similar in their marketing behavior to legitimate businessmen?

(2) Can legitimate marketing theory serve as a vehicle for describing and analyzing the behavior of thieves and fences in their distribution of stolen property?

(3) Can conventional marketing theory provide significant assistance in investigating and deterring traffic in stolen property?

Affirmative answers to these questions would yield substantial and direct benefit in at least two areas:

(1) Creation of blocking strategies — steps taken by law enforcement departments to make the distribution of stolen goods so expensive, time consum-

ing, and/or risky that there would be a significant lessening of the incentive to deal with stolen goods.

(2) Design of investigatory strategies — systematic ways of analyzing and visualizing the activities related to the traffic in stolen goods. Not only would such a framework make case evidence more meaningful to the investigator, but it would also allow him to predict the existence of activities and institutions before complete evidence is available. This would allow an investigator to shortcut a tortuous chain of obscure clues by predicting activities most likely to be occurring.

II. The Marketing of Stolen Goods

Three special kinds of markets involving nonlegitimate goods are distinguishable: first, a "black market" operating in an economy of scarcity; second, a "market for stolen goods"; and third, a market for illegal items operating within an open economy. In an economy of scarcity a rationing system and price controls are used to provide some semblance of equilibrium. In this type of economy demand is greater than the supply of goods which drives the price of goods up to an artificially high level, thus creating a "black market" in which goods move illegally at prices often far above the official price and in quantities not authorized by the rationing system.[4] In an economy of abundance, there is a similarly clandestine market which may be referred to as the "market for stolen goods," consisting of stolen items moving through illegal channels. A major distinction between the black market and the market for stolen goods is that prices are higher than the official market price in the former, and lower than the free market price in the latter. Finally, there is a market for illegal items, such as narcotics or unlicensed liquor, for which there is an abnormal but open market, and in which illegal items usually move at a market price which equates supply and demand. This study will be concerned with the second of these three identifiable markets.

The thief and the fence have a good deal of flexibility in selecting a marketing strategy. Due to such factors as a low cost of goods sold and freedom from some legal constraints, in some situations they may actually have more freedom than legitimate businessmen. But, because of other factors, such as

[4] *See* M. Clinard, The Black Market (1952).

concern about the threat of detection, they have markedly less flexibility in their marketing behavior. In this section the traffic in stolen goods will be examined from a marketing perspective to demonstrate that marketing theory can be used to gain added insights about such traffic.

A. *The Demand and Supply of Stolen Goods*

The quantity demanded of an item is a function of its price, the seller's promotional efforts, and the buyer's ability to purchase, as limited by his income. Demand is considered to be either "primary" (desire for coffee) or "selective" (desire to buy a specific brand of coffee). Typically, both types of demand must be present before a sale occurs. Thus, a fence selling stolen goods to a person reluctant to buy stolen goods knowingly must first overcome the hesitancy to purchase *any* stolen goods (create primary demand) and then convince the purchaser to buy the specific items offered for sale.

Primary demand for stolen goods is probably relatively low in the public at large, but may be relatively high within certain low-income sectors of the population. Often, the stolen goods marketer is not faced with a severe problem of having to stimulate primary demand. However, as the volume of stolen goods increases, increased efforts must be made to promote selective demand as thieves begin to compete with each other and with legitimate dealers for the market. In short, increased supply places thieves and fences under increasing pressure to become "marketing oriented."

The aggregate supply of an item offered for sale is a function of all costs involved in producing that item and the price for which it can be sold. Equilibrium between quantity sold and quantity demanded is achieved when the buyers and sellers agree on a market price. The conventional wisdom of economics indicates that an "automatic" movement toward equilibrium is brought about by competition, free movement of prices, and free entry and exit of suppliers from the market. However, a formalized marketing system is required to equalize local differences between demand and supply.

The general level of disequilibrium between supply and demand determines whether there is a "seller's market" or a "buyer's market." In a seller's market, supply is less than demand; the supplier need not stimulate demand because he has the balance of negotiating power, encounters little difficulty making sales, and is able to name the price. In a buyer's market, demand is less than supply, and the sellers must compete with each other in persuading the potential buyers with elaborate systems of marketing (including the creation of selective demand through advertising, product differentiation, and other marketing activities).

Over a short period of time (perhaps a year), one would expect the demand for stolen goods to be reasonably stable in a market area, although a prolonged strike or massive layoff in an urban area could create a temporary decrease in supply and therefore an accompanying relative increase in demand. However, the supply of stolen goods is very volatile, being upset by either a large-volume theft of an item or a large recovery by the police. If the equilibrium were upset by a high-volume cargo theft, one of three things would occur: (1) an equilibrium between supply and demand in the basic market could be re-established simply by a decrease in the price asked by the seller, or by an increase in promotional activities to expand demand; (2) equilibrium could be re-established by transporting the surplus items to another market region; or (3) equilibrium could be re-established by tapping into a new market segment such as selling to the next most risky market, which may necessitate entry into legitimate channels.

Analysis of the state of equilibrium between supply and demand in a local market could provide blocking and investigatory strategies to law enforcement agencies. If an effective method could be developed to continuously monitor supply and demand, operational information about the flow of stolen goods would be continuously available. Sales of stolen goods at an increasing price over time would indicate either an increasing demand or a decreasing supply of that item in the geographical area. One might expect more of the goods to be either stolen or imported.

B. *Transactions Matching Supply with Demand*

Never will a producer of goods produce in exactly the quantities or assortments needed by potential customers. Nor can a consumer deal directly with the various producers of all the items he needs. Clearly there is a need for a distributor/middleman who must match a supply of goods that is heterogeneous in terms of time, location, and quantity with a demand that is equally heterogeneous.[5]

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[5] *See* W. ALDERSON, DYNAMIC MARKETING BEHAVIOR 23-51 (1965).

The matching of supply with demand in the case of stolen property would seem to be an especially difficult marketing task, since supply and demand are so heterogeneous. Supply assortments range from truckloads of surgical brassieres to guns, diesel engines, liquor, and a variety of other products. Consumer types include other thieves, knowing consumers, businessmen willing to take a small risk in order to cut costs, and unsuspecting consumers.

This mismatch between aggregate supply and aggregate demand is simply too great to be equalized by thieves themselves. Therefore, the activity of fences is necessary to add time, place, and possession utility to stolen goods held by the thief. Without these utilities the goods would be unsalable.

In a legitimate business the mechanical elements of the transaction are usually minimized and routinized to make the actual transaction as convenient as possible. However, an illegal transaction is typically surrounded by awkwardness; and the time, place, and other physical mechanics of the transaction lead to much inconvenience for both buyer and seller. Both parties will benefit to the extent that the transaction can be made more convenient. One way to make it more convenient is to use a specialist middleman, such as a fence, to locate sources of supply and demand, to determine the types of products to be exchanged, and to facilitate and motivate a willing exchange between buyer and seller.

This study found a variety of transaction-types involving stolen goods, ranging from rather routine to rather complex, and involving various degrees of risk and trust on the part of the buyer and the seller.[6] A most important consideration in the transaction between a thief and his fence is risk. In turn, this element of risk often requires an inordinate amount of trust between the parties — a trust maintained in part by the unwritten "code of silence" which prevails among active participants in this subculture.

There are two very distinctively different kinds of trans-

[6] The simplest kinds of exchanges reported were of the "Hey, buddy, want to buy a watch?" type for the blatantly illegal transfer, and the simple pawning operation in cases where an attempt was made to legitimize the transaction.

The most complicated exchange reported was a case in which the buyer knowingly bought a television set in a bar, without seeing the set beforehand. He paid the cash price and gave his car keys to the bartender who had someone drive the car to another location, load the set, and return it to the bar. Thus, the buyer gave up cash and his car, trusting that the car would be returned with the right kind of goods. Surely, this type of exchange demands an inordinate amount of mutual trust.

actions in which stolen goods are exchanged, which may be distinguished on the basis of whether the seller attempts to conceal the fact that the goods are stolen.

In some cases no effort is made to conceal the fact that the goods are stolen. It is most likely that this would be a rather simplified type of transaction which could occur at most any time or place with simple precautions to preclude detection by law enforcement officials. Both buyer and seller are taking risks, since both are subject to prosecution. However, with both parties trying to camouflage the exchange, there is much difficulty in detection.

In other cases, some effort is made to legitimize the transaction. The seller must convince the buyer that the goods are legitimate in order to complete the sale. In this case, the seller is taking the risk. If the buyer knows that the goods are stolen, he is not willing to buy, and may even report the attempt to sell. Since the seller must make an effort to disguise the exchange in order to convince the buyer to buy and not to report the exchange, there may be a tendency for the selling job to be done by a selling specialist; *i.e.*, a fence with a legitimate cover or front.

C. *Functions of the Middleman*

In the process of marketing, the middleman must perform three distinct functions, each of which has identifiable subfunctions:[7]

(1) The functions of exchange — buying and selling;

(2) The functions of physical supply — transportation and storage;

(3) The facilitating functions — financing, risk-taking, market information, and standardization.

Any one of these functions or subfunctions may be more or less important than the others depending upon the situation, but they all must be performed. One cannot expect them to be less problematical for the thief or fence than they are for the legitimate businessman.

1. The Functions of Exchange

The functions of exchange include buying and selling. Selling is "the personal or impersonal process of assisting and/or persuading a prospective customer to buy a commodity or a service or to act favorably upon an idea that has com-

[7] R. TOUSLEY, E. CLARK & F. CLARK, PRINCIPLES OF MARKETING 14 (1962).

mercial significance to the seller."[8] The aim of the selling function is to accomplish transfer of ownership of a commodity. Buying is the marketing function of controlling or concentrating goods to facilitate sale, purchase, production, or use. Purchases, therefore, can be made for one of three objectives: buying for business use, buying for resale, and buying for ultimate consumption.

Sales to various buyers of stolen goods differ in the degree of involvement of the original seller. The quantity of items to be sold dictates in part the role of the middleman in selling. If there is a large quantity to be sold, the middleman or fence plays a larger part in arranging and facilitating the sale.

Direct selling is by far the dominant form of selling with respect to stolen property, although there may be a broker of some type who brings buyer and seller together. In some cases, the seller has the negotiating power, while at other times he does not. Where supply is greater than demand, the seller usually makes the initial advance to begin the transaction.

The buying function for stolen goods is probably the most important function that the fence provides: getting the goods off the hands of the thief. In all cases it is important for the thief to "get off the goods" as soon as possible. He is under great pressure to transport the goods from the site of the theft. Unlike a legitimate marketer, the thief usually cannot store the goods while waiting for better market conditions or for a better assortment. The minimization of risk by putting distance between the thief and the evidentiary goods is critical. It is also usually important for the thief to get cash as soon as possible after the theft. A recurring point made by thieves is that they spend money as fast as they get it and that they are always under a real or imagined pressure to get more cash. All sources stated that they would not release goods to an ultimate consumer without cash on the spot, although they might sell on very short-term credit (a few hours at the most) to a fence.

2. The Functions of Physical Supply

The functions of physical supply include transportation and storage. The transportation function provides the physical transfer of goods from producer to user and adds place utility to the items. The storage function creates time utility in a product, tends to level out fluctuations and differences in quantities

[8] MARKETING DEFINITIONS at 16.

produced and demanded, and is necessary in matching supply with demand.

The transportation and storage functions can be most critical to the successful fencing of goods. The ability to move the goods from the thief to the next user is one of the prime responsibilities of the middleman. By token of their importance and possible complexity, the transportation and storage functions would seem to be among the most vulnerable links in the fencing operation.

3. The Facilitating Functions

The facilitating functions include financing, risk-taking, providing market information, and standardization. "Market financing is that part of the general business function of providing and managing funds and credit which is directly related to the transactions involved in the flow of goods and services from producer to consumer or industrial user."[9] When goods are owned, capital is invested in them. The financing function provides this capital.

In the traffic in stolen goods, the fence provides a major source of financing for the thief. The fence almost always has cash available and usually pays the thief directly and immediately in cash — a necessary requirement for addicts and for criminals in need of cash. As a middleman, the fence is in a position to turn over the goods for cash and consequently is a major financer. This is true of secondhand dealers and pawnbrokers as well as the full-time fence.

Risk is typically defined as a hazard of loss in which the probability of loss is known. Any time a middleman performs an activity relative to property, it costs him money, and he takes a risk that he can recover the money by selling the goods at a higher price than he paid for them. If the probability of risk is known, the middleman can insure himself against loss.

The thief faces one major type of risk: the risk of detection during and after the theft. The fence faces two major types of risks: the risk of detection while performing any one of the middleman functions *and* a significant economic risk. The latter risk arises because he has committed resources for goods which he may not be able to sell at a profit. Although the fence is often better able than the thief to protect himself against the risk of detection by means of alibies, covers, and

[9] *Id.* at 12.

fronts, he is generally less able to protect himself against economic risk. The fence faces risks in all of the middleman functions; for example deterioration or obsolescence during storage or transportation, decrease in retail price of the goods in legitimate channels, and poor intelligence or market information.

To the extent that marketing decisions are based on concrete facts, the marketing function will be performed more efficiently. Market research includes the gathering, recording, and analyzing of all facts about problems relating to the transfer and sale of goods and services.

The dominant form of market information about stolen goods is word-of-mouth communications between consumers, fences, information brokers such as bartenders, and thieves. This study found no evidence of sophisticated data gathering and analysis similar to the very effective techniques used by legitimate businessmen. However, it is likely that syndicated crime does use such techniques on large volume transactions. If more thieves and fences were to begin using market research and intelligence-gathering techniques similar to business and law enforcement agencies, increased traffic in stolen goods could result since these techniques are signs of a sophisticated market orientation.

The standardization function determines the basic limits or grades in the form of product specifications to which manufactured goods must conform, and the classes into which products may be sorted.[10] It also includes determining the appropriate quantities for package units.

Because thieves and fences deal mostly in goods already manufactured and packaged, the standardization function is not as important as others. However, in the case of cargo thefts of industrial or semiprocessed goods, the standardization function takes on added importance because the fence must perform some grading and packaging.

D. *The Consumer of Stolen Goods*

Characteristics of consumer motives and behavior are a very critical element in marketing. As in legitimate marketing theory, it is impractical to consider the market for stolen goods without also considering the preferences and characteristics of the consumer. Buying motives refer to the reason a person decides to buy a certain brand or to buy at a certain

[10] *Id.* at 16.

outlet. Motives may be either *rational,* a decision made strictly on the basis of price or functionality of the product, or *emotional,* satisfying prestige, status, maturity, or other psychological or social needs. A consumer's belief that he is getting a "bargain" is a strong buying motive which provides part of the explanation for a market in stolen goods.

On the other hand, buying habits refer to the pattern of behavior exhibited in the market prior to and during the transaction. The state of the buyer at the time of the proposed purchase influences the search behavior of the buyer. Thus, a buyer may be in one of the following categories relative to the purchase of stolen goods: *unaware* that stolen goods are available; *aware* that stolen goods are available; *interested* in buying stolen goods; *intending* to buy stolen goods; or actually *buying* stolen goods.

In much the same way, buyers of stolen goods can be arranged in several usage classes varying from nonuser to heavy user. Investigation as well as prosecution varies with two important characteristics of the consumer: (1) if the buyer knows the goods are stolen, and (2) the frequency with which he buys stolen property.

An *unaware consumer* is one who buys stolen goods without knowing they are stolen. This could occur because he is buying in a supposedly legitimate outlet and has no reason to be suspicious, or because the thief or fence makes elaborate efforts to legitimize the exchange. An *aware consumer* is one who knows that the goods are stolen, and buys them anyway.

The frequency with which a person buys stolen property is an important characteristic as well, regardless of his state of awareness. A *light user* is one who rarely or perhaps only once buys stolen goods. A *heavy user* is a person who regularly buys stolen goods, and it may be such a regular part of his behavior that he "checks around" about the availablity of stolen goods prior to buying in the legitimate channels and expects to fill a substantial portion of his needs with stolen property.

Even with this simple classification, we arrive at four kinds of consumers: (1) an unaware light user, who unknowingly buys stolen goods; (2) an unaware heavy user, of which there are most probably an insignificant number; (3) an aware light user, who may be buying for emotional motives; and (4) an aware heavy user, who is probably in an income or other grouping in which this mode of behavior is necessary or accepted.

In the case of aware users, the consumer is likely to have buying habits that could be easily identified. For example, the consumer must be able to come into contact with a fence or a thief — a characteristic that is not common throughout the citizenry. The consumer must have the full price in cash readily available since there is little or no use of credit. The consumer must be willing to assume the various kinds of risks involved — especially the risk that the product is unsatisfactory, and the risk of detection. The consumer must be someone who is not adverse to avoiding conventional channels and who is willing to tolerate the inconvenience of doing so.

Further, aware consumers would likely be distinctive in their motives for buying stolen goods. Motives could range from money savings to the psychological thrill derived from "beating the system." However, the most powerful motive apparently is derived from the substantial savings involved (savings of 25 to 90 percent off regular retail price are reported). To gain this savings the consumer must give up many conveniences that he could normally expect from the conventional channel of distribution; *e.g.*, time, quantity, place, selection, service, and warranty.

Surely a group of consumers with such unique buying habits and motives have demographic and socioeconomic characteristics that can be identified through research processes. Precise definitions of these characteristics would provide much usable information about market segments allowing one to define a hierarchy of markets according to the risk involved in selling to each. Much can be learned about a fence by studying the classes or groups which constitute his customers.

Most consumers are probably not contacted as potential buyers by thieves or fences. If this is so, it can be expected that a market segment composed of regular users consume the major portion of stolen goods, that they are a market segment having a definable composition, and that they are readily distinguishable from the remainder of the public. These factors create the possibility of making a consumer profile analysis — a definition of socioeconomic boundaries of various kinds of users of stolen property. This would provide a great deal of information about the traffic in stolen goods.

E. *Channels of Distribution for Stolen Goods*

The channel of distribution is traditionally defined as "the route taken by the title to the goods as they move from the producer to the ultimate consumer."[11] This definition is obviously not satisfactory here since the title to the goods is separated from the possession of the goods by the thief. Thus, the definition can be altered to refer to the path taken by *possession* of the goods between the producer (the thief who produces stolen goods) and the consumer (the person ultimately consuming the goods), since possession supplants ownership in the case of stolen property.

Specific channels of distribution for stolen goods may be distinguished on the basis of two factors: consumer knowledge and, in the case of industrial goods, the type of product.

1. The Aware Consumer

When the consumer is aware that the goods are stolen, the parties are not concerned with trying to disguise the illegality of the transaction. The only difference between channels in this case is the number of middlemen involved, and there need be no attempt to legitimize the transactions. The thief may make a direct sale to a consumer, performing the functions of a middleman himself, or he may involve an intermediary who merely functions as a type of broker. When the intermediary takes possession of the goods, he must perform the marketing functions of a middleman.

2. The Unaware Consumer

When the consumer does not know the goods are stolen, an effort must be made within the channel of distribution to legitimize the transaction by disguising the fact that the property is stolen. Differences in channels will entail differences in the number and type of middlemen involved.

The thief may sell directly to the consumer but must take steps to give the transaction an aura of legality. If he cannot legitimize the transaction or perform some middleman marketing function, he must utilize one or more intermediaries in the channel of distribution, generally a fence. Legitimation is best accomplished if the fence operates a cover or front institution of some kind.

3. Channels of Distribution for Stolen Industrial Goods

Industrial goods are products which must be substantially

[11] *Id.* at 10.

converted before they can be marketed to the consuming public. Stolen industrial goods are converted into consumer products or are items used or consumed in the conversion process. In almost every case, there is a legitimizing transaction somewhere within the channel before goods reach the consumer.

The thief may either sell the goods directly by legitimizing them to a consumer, by legitimizing them to a supplier, or by selling them to a fence who will in turn legitimize the goods either to a supplier or to a consumer. The thief will be best able to legitimize a direct sale in instances where a supplier or industrial consumer normally buys from a large number of individuals. Particularly with industrial goods, large quantities of stolen goods may necessitate the participation of a fence with an institutional cover or front.

The wide variety of middlemen operating within legitimate channels — including rack jobbers, drop shippers, manufacturers' agents, brokers, commission men, and truck jobbers — make it easy for a fence to assume a cover or a front for legitimizing sales. However, as the channel of distribution is lengthened with additional transactions between the thief and the ultimate consumer, each channel member must receive a lower margin since the price to the consumer cannot increase substantially without eroding the differential advantage of the thief or fence. As channel members see a reduced potential margin, there is a lessening of incentive for them to deal with stolen property. Lengthening of the channel also increases the probability of detecting the traffic since there are more channel members vulnerable to detection.

F. *Pricing of Stolen Goods*

The price asked by a seller depends primarily upon three related factors:

(1) Market demand — generally, the price of any given item will increase as the demand for the item increases and will decrease as the demand decreases.

(2) Cost — profitable sales dictate that the selling price must be greater than the cost of producing the item. However, it is generally held that cost determines profit rather than price.

(3) Competition — as more persons try to sell similar items, the price will generally drop due to the increased supply.

Although he may not have complete information about each of these factors, the seller must balance them in arriving at a price which will be satisfactory to his market segment and to his profitability.

If one seller's price is higher than that of a competitor, the seller must offer some type of additional inducement to overcome the disadvantage. Common kinds of nonprice competition are premiums such as trading stamps, services such as delivery or credit, and imputed quality differences created by promotion. If one seller's costs are lower, he can lower his price and increase demand for his output. This is a major factor in the continued traffic in stolen goods both because thieves and fences are somewhat limited in the kinds of nonprice competition they can mount against legitimate sellers and because they generally have a low dollar cost for goods.

The total monetary cost of stolen goods to a middleman is extremely low — so low, in fact, that it is not really a price determinant. A major nonmonetary cost of producing stolen goods is the amount of time spent in confinement if the thief is caught. However, only one source, a thief who had spent many years in jail and who now has apparently reformed, mentioned this as a "cost of doing business" (and decided that it was too high). Other sources stated that the probability of having to pay this cost was so low that it really was not worth considering (or at least they chose not to consider it).

Thieves and fences confront the same problem in predicting demand that a legitimate seller confronts; but because of their circumstances they can only estimate the relationship between price and quantity demanded, or use a trial and error method for determining demand. Additionally, price competition among thieves is probably not too strong with respect to a given product. Their major competitors are the legitimate dealers in the product.

Thus, the thief and fence are not able effectively to use cost, demand, and competition in setting price. However, they do have a very effective base upon which to arrive at the price for an item. Their pricing base is simply the regular retail price in legitimate outlets. The price received by the thief varies with respect to retail price because of two factors: (1) the efforts made to legitimize the transaction; and (2) the involvement of a fence in the channel of distribution.

Where there is no effort made to legitimize the sale to the final consumer, whether there is a direct sale or a fence involved, there are few pricing problems for any seller in the channel of distribution. For the thief, a price set too high may result in lost sales, while too low a price will cost the seller additional profits. With the addition of one or more fences and middlemen to the channel of distribution, prices must be set low enough by the thief to allow the fence to cover the cost of middleman services that he provides and to make a profit on the final transaction. While the thief gets a lower price when he deals with a fence, he gets additional benefits and services rendered by the fence which he would otherwise have had to provide.

Where an effort is made somewhere within the channel to legitimize the transaction, the pricing problem is more difficult. When the thief makes a direct sale to a consumer or a legitimate middleman, he must not set his price so low that it would be an indication that the transaction is not legitimate. On the other hand, the higher he raises his price (and increases his profit), the more he increases his direct competition with legitimate dealers handling the same product— dealers who can offer considerably more than the thief in the way of services and convenience. If the thief sells to a fence who in turn legitimizes the transaction, the thief has no pricing problem. In such a transaction the bargaining power relative to price will depend upon which individual takes the initiative in the transaction. If a fence asks a thief to bring in a particular good, the thief has bargaining power. Otherwise, the fence has the bargaining power.

In summary, the thief often faces a dilemma in that his price may be too high or too low. However, the thief and fence both have a ready reference in the regular retail price. The pricing objective of the thief is simply to arrive at a price that will move the goods to an aware or unaware consumer and provide cash. The fence has a more complex pricing objective in that he must arrive at a price that will move the goods and allow him to recover his investment in the goods plus a profit.

G. *Promotion*

The objective of a promotional program is to stimulate demand for an item. The sequential problem faced by the seller is to create attention, interest, desire, and conviction on the part of the potential buyer to make an exchange with the seller. To achieve this objective, a promotional mix is created which may include advertising, personal selling, sales promotion, and other promotional tools.

The promotional program offered is thought by many to be closely related to the channel of distribution used. For instance, a long channel of distribution (one including many middlemen) typically also provides distribution over a wide geographical area and requires a "broadcast" type of promotion provided by newspapers, magazines, radio, and TV.[12] A short channel (the shortest is direct selling between producer and consumer) would best be served by the "closed circuit" promotion found in face-to-face contact between buyer and seller. The most effective and expensive promotion is that of a salesman in face-to-face contact with the potential buyer.

Promotion strategies may be differentiated on the basis of the potential buyer's willingness to buy stolen property knowingly and the thief's attempt to legitimize the transaction. Consider first the situation where the buyer is willing to buy goods he knows are stolen. The most difficult part of the promotional problem faced by the thief or fence is attracting the attention of potential buyers. There is not a universally effective way of making contact or getting leads on potential buyers of stolen goods. Some sellers of stolen goods may make an overt attempt to contact potential buyers. Perhaps the most effective way of making contact is by word-of-mouth communications through friends and relatives. For instance, a person may bring a quantity of goods (for example, a vanload of clothes) to a point in the community and encourage friends to spread the word through the neighborhood that a sale is being held. The goods might be exhausted in a few hours of one evening. Other sellers may wait for the consumer himself to make contact with the supplier of stolen goods by "asking around in bars."

Once the contact is made, interest in buying stolen goods is created by the low price of the item and the thief's assurance of safety in making the transaction. If the buyer is receptive, arrangements for the exchange will follow.

When the thief tries to legitimize the transaction because the buyer is not willing to buy goods that he knows are stolen, the thief is limited in the promotional techniques available because the method of promotion itself may be an indicator

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[12] *See* Aspinwall, *The Parallel Systems Theory*, *in* MANAGERIAL MARKETING: PERSPECTIVES AND VIEWPOINTS 644-52 (1962).

that the deal is illegal. Two possibilities for broadcast types of promotion are the use of classified ads in the newspaper and the popular garage sale, although these methods require a "front" phone number and address. However, if the thief uses a fence who has a supposedly legitimate front, the fence has a normal businessman's flexibility in selecting promotional programs.

Of all the parts of the marketing mix involving stolen goods, the promotional programs are the most difficult to describe because they are least evident. At the same time, the promotional aspects provide one of the greatest opportunities for thieves and fences to enhance the sale of stolen goods, and for law enforcement officials to detect and block that traffic.

H. *Product Line*

A legitimate producer of goods has ample opportunity to design the product in such a way that it will be more easily salable. A variety of classification schemes is available to describe the differences between products which require a different type of marketing mix.

The most widely recognized classification scheme is to divide products into convenience, specialty, and shopping categories. A convenience good is a type of item that the consumer buys regularly, and one to which he is not willing to devote a great deal of time nor suffer inconvenience in making its purchase. He will not "shop around" for such a product and will be willing to buy it at any time or at any outlet as his needs develop. Examples of convenience goods would be cigarettes and bread. A shopping good is one for which the buyer is willing to compare prices and product features of several brands and in several outlets before he chooses a brand and outlet, as in the case of clothing. A specialty good is one in which the buyer knows exactly what he wants, and will go directly to the outlet that carries it, as in the case of a brand-loyal car buyer.

A skilled thief or fence makes critical decisions about product lines in which to deal. This is accomplished when the thief is selective about what he steals and when the fence is selective about what he buys from the thief. In general, consumer goods most likely to be stolen for resale or fencing seem to have the following characteristics:

(1) High value — this generates more cash per risky transaction for the thief or fence.

(2) Low bulk and low perishability — these features make it easier to transport the item from the point of theft and provide flexibility in the storage and handling of the item.

(3) Branded — items that are branded and those with a heavy promotion of the brand by legitimate sellers are much easier for the thief to sell.

(4) Nonsized — items that are sized, such as shoes, complicate the problem of matching supply and demand.

(5) Established and well-known price — to show that the stolen goods are a genuine bargain and to give the thief his only differential advantage, the regular retail price must be well known to potential buyers. The retail price is also used as a base price for negotiations between the thief and fence.

(6) Three other features are of considerable importance, but perhaps not so critical as the ones above: since the thief cannot offer a guarantee or warranty, the product should not be subject to high levels of post-purchase dissatisfaction; the amount of risk increases with an increase in the traceability of the item; and marketing opportunities increase substantially with an increase in the range of consumer types who are potential consumers.

Consumer goods such as guns, gems, autos, television sets, and liquor all seem to have these characteristics in varying degrees. Typewriters and adding machines are the best examples of industrial and commercial products having these features.

There are many exceptions to these characteristics. For example, brassieres, cut logs, shoes, pool cues, and meat have been stolen in volume and do not have all of the important features. The exceptions suggest that perhaps one important characteristic to be added to the list is *availability for theft.*

Even a heavy consumer of stolen goods cannot rely on a fence to supply convenience items regularly, and he may prefer to buy some items from a legitimate outlet. Thus, the general class of convenience goods is usually fenced only when large quantities can be moved through legitimate channels. An exception, of course, is cigarettes, which are widely marketable.

The fact that large quantities of convenience goods are occasionally fenced may give some clues to the channels of distribution for other types of stolen goods if the convenience good's channel can be traced.

III. Recommendations and Conclusions

Marketing theory provides a fresh and effective foundation for studying the traffic in stolen property. It allows law enforcement agencies to visualize theft and fencing activities from much the same perspective as that used by thieves and fences.

Professional and organized thieves and fences face a formidable marketing task, especially in the case of large-scale cargo thefts. When faced with a marketing problem, particularly a complex one, the thief or fence may make an overt attempt to solve it. Once he does — that is, once he becomes marketing oriented — his behavior pattern becomes more *predictable* through the use of marketing theory and concepts. Thus, by studying the problem from the perspective of a marketing-oriented thief or fence, police agencies can investigate and attack crimes by studying the logical marketing practices and actual marketing activities of thieves and fences.

Law enforcement agencies, for example, must increase their efforts to monitor the equilibrium between demand and supply of important types of stolen goods. Continuous efforts should be made to find methods of answering three questions for each type of good. First, for a given time, product, and area, does the thief or the fence typically initiate the transaction? Second, is the price for the item increasing or decreasing? Third, are thieves or fences shifting from a more risky or less risky market segment? Answers to these questions could allow the investigator to determine the degree of equilibrium between supply and demand for each important item. If supply is greater than demand, the investigator can expect that perhaps the goods have been transported into the market area, and can endeavor to determine the supply area from which they have been shipped. If supply is substantially greater than demand, he could expect shipments out of the market area. If the answers indicate that supply is less than demand, the investigator can expect either increased thefts of the item, or shipments into the market area from other points.

Several specific operations currently used by police forces could be more effectively employed for continuous monitoring of supply and demand. These include the use of pawnshop details, informants, undercover agents and a more complete questioning of suspects and victims.

If a thief or fence concentrates on trading with a specific market segment — perhaps an ethnic minority, a certain income or age group, persons working or living in a specific location, or persons unique in their drinking patterns — his marketing activities must be tailored to fit that segment. Therefore, if one can separate from the group of potential consumers the particular market segment served by a thief or fence, a surprising amount of information about his marketing activities can be learned.

A. *Problems in Studying Fencing and Gathering Data*

There is a need for additional research into transactions involving stolen goods conducted from a marketing perspective. For example, one might inquire as to how the channel of distribution varies with the characteristics of the stolen item, or into the critical buying habits and socioeconomic demographics of the aware, heavy consumer of stolen goods. In any attempt to delve into stolen goods marketing, problems in data gathering and anlaysis will have to be met in the design of a research or investigatory model.

The most problematical area is undoubtedly that of the lack of readily available data relating to the traffic in stolen property. This problem is caused mainly by lack of financial resources, traditional use of statistics primarily for budgetary purposes, and other characteristics of law enforcement agencies. There seems to be a tendency for departments to record data more for the purposes of budget support and for public reporting than for any very sophisticated kind of operational or investigative purpose. Furthermore, there is a surprising lack of transfer of information between and even within many departments. Additionally, police reporting forms are often poorly structured and are frequently replete with errors and omissions.[13]

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[13] For example, in one department, when an auto is stolen a loss value equal to the value of the car is reported. However, when the car is recovered stripped of parts, the recovery value given is the original value of the car, inflating the recovery statistic and obscuring the parts stolen.

In a study by the authors of bicycle thefts, 41% of the reports did not indicate the time of the theft, 26% of the reports did not include the day of the theft, and 12% did not indicate whether it was a man's or a woman's bike that was stolen.

Not all of the lack of information is due to inadequate police reporting and data analysis. The code of silence among thieves is especially powerful relative to fences and fencing activities, and most professional fences keep the thief unaware of their activities. There is also a lack of continuity in operations by thieves and fences. Most institutionalization or routinization of their activities is necessarily done in ways that reduce visibility of the operation. Another problem is that thieves are not totally rational or sophisticated in business practices, even though they generally attempt to maximize profits rather than to satisfy psychological needs.

B. *Recommendations for Action*

Listed below are selected strategies based on marketing and management concepts which appear to be useful in restricting the traffic in stolen property or for investigating specific cases dealing with stolen property. While some of the strategies could be implemented with the current state of knowledge, others will require additional research prior to their implementation. Some strategies suggested are now in use by some law enforcement agencies and are reported here because they illustrate the marketing dimension. Some are directed at the thief, others at the fence, and still others at the consumer of stolen goods.

Two kinds of recommendations are made. First, blocking strategies should be utilized. These are actions taken by law enforcement agencies to make the traffic in stolen goods so expensive, time-consuming, or risky that there would be a significant lessening of incentive to deal with stolen goods. Second, investigatory strategies, which are systematic ways of visualizing the diverse activities related to traffic in stolen goods, should be employed. An investigator is often faced with sparse and seemingly disconnected observations, but through the use of various investigatory strategies, an investigatory model can be designed whereby these observations can be connected and case evidence then becomes more meaningful. The use of a model will enable the investigator to predict the existence of activities and institutions before all the requisite facts become available.

1. Blocking Strategies

The best blocking strategy is obviously the prosecution and conviction of fences. Giving some thieves immunity for turning states' evidence may well be worth the public wrath incurred to identify, study, and prosecute fences. If the demand for stolen goods is reduced by disrupting or blocking the fences, the production or theft of stolen goods will necessarily also be reduced.

The traffic in stolen goods can be deterred to the extent that the channel of distribution is lengthened. As the channel is lengthened, the price of stolen goods must be higher. As the price approaches the legitimate retail price, the fence loses his primary competitive advantage. Thus, any action that would cause more middlemen to be involved in distributing an item lowers the profitability of the traffic and thereby lowers the incentive to trade in stolen goods. Lengthening of the channel may also increase the probability of detecting the traffic.

Anything that can be done to increase the price of stolen goods would provide effective blocking of the traffic. Techniques for increasing the price — if such methods could be perfected — include jamming channels of communications, lengthening the channels of distribution. and restricting the traffic to low-margin items.

Traffic in stolen goods is deterred to the extent that the actual transaction can be made more inconvenient. The competitive advantage of a fence is his low price to the consumer, who must accept inconvenience during the transaction. Thus, the fence's competitive advantage decreases as the transaction is made more inconvenient.

The ability to block the traffic in stolen goods increases as the supply of stolen goods becomes greater than demand, such as would result if the purchase of stolen goods were made more risky. In such a market, the fence must take more risks and become more marketing oriented; any change in his marketing program makes him more vulnerable to efforts made toward blocking his marketing operation.

A classification of transactions into types would indicate transactions to which high priorities should be assigned for further investigation. A study of transactions would also yield certain definable patterns of exchange. This would allow isolation of the types of transactions most susceptible to detection; *e.g.*, the ones most risky due to prolonged or repeated contact, or the ones most costly to the fence in terms of time or money. One could also determine the transaction type most vulnerable to deterrence, such as the type which requires the most sophisticated efforts to legitimize.

The point at which a conviction for receiving is most likely to result is the transaction just prior to the legitimizing effort, since both parties know the goods are stolen. The most difficult kind of transaction during the flow of goods occurs at that point where the thief or the fence makes an effort to legitimize the transaction, since he has two things to do at once: make the sale, and make it appear legal. For these reasons, these particular types of transaction should receive special enforcement attention.

Public service advertising programs directed at consumers can be effective in blocking some traffic in stolen goods by reducing primary demand. Because an aware but light user of stolen goods is expected to be somewhat nervous about undertaking the transaction, an advertising theme playing on this anxiety by stressing the danger of muggings and fraud could be effective. Persons who are unaware that they are buying stolen goods might be influenced by an advertising program stressing the inconvenience and dangers in making purchases outside regular channels. The objective of these kinds of advertising programs is to limit the potential market of fences thus slowing the traffic and thereby making it less profitable. Such a program would probably not be effective in influencing the aware, heavy user, although additional research might reveal some motive that could be played on in reaching this group.

A careful monitoring by law enforcement agencies of the assortment of goods maintained by suspected thieves and fences in a market area would provide useful information about the market they serve, about the demand for stolen goods in the market, and about the buying habits of their customers. Fences can be classified as being either specialized or generalized, allowing law enforcement agencies to tailor blocking strategies accordingly.

Law enforcement departments can destroy the integrity of the channels of communication that are so necessary to the traffic in stolen goods. Communications and promotion channels are very informal and subject to considerable noise and interference. Since promotion is so vital to distribution, the distribution can be partially blocked by making communications unreliable and inconvenient — perhaps by "jamming" the channels with false information about the availability of stolen goods.

Improved communications between departments, including comparison of theft and recovery reports, would allow for a more complete determination of areas which are suppliers and those which are markets for specific types of stolen goods at a given time. The investigation program would be substantially different if the investigator were looking for thieves than if he were looking for a fence in a market area. Cooperation and exchange of information about suspected stolen items traveling out of a geographical market area into another jurisdiction would force the fence to take additional risky steps. Additional middlemen, storage, or increasing costs would be required to overcome these increased risks.

Identification of goods with numbers and secret marks is most desirable. Businesses themselves would benefit from serialization or other identification because of increased efficiency in inventory and stock control. Insurance companies, too, would be in a better position to assess and pay claims. In fact, insurance companies might require better identification or serialization as a condition of insurability. But the most important aspect of better identification is the deterrent effect on the potential thief and his fence. This deterrent effect emanates from the increased power of law enforcement officials to identify more clearly and locate stolen property.

Means of identifying sources of materials available for sale in salvage yards and secondhand stores must be found. These outlets are existent and effective opportunities for fencing. A required waiting period prior to resale of goods would permit spot checks and close surveillance by police to determine true ownership. Auction houses, bazaars, flea markets, garage sales, and pawn shops would also be subject to spot checks, since they are also effective outlets for stolen goods.

2. Investigatory Strategies

An investigator may classify stolen goods on the basis of their marketing characteristics thereby allowing him to devote different amounts and kinds of energy to the different types of products and market segments. For example, a thief distributing a large quantity of convenience goods will almost surely have to use a fence who has contact with dealers that have high sales volume through multiple outlets. On the other hand, he could use personal contact selling with shopping or specialty goods.

Better incident and statistical reporting on the part of police and other law enforcement agencies would make the tracing of stolen property much easier. Reporting officers are frequently neither descriptive nor specific in describing the kind of property stolen. The ability to investigate specific cases increases with both the precision of identification of the goods and the precision with which field reports are completed.

Sophisticated statistical analyses of a department's theft and recovery reports, including a comparison with data from other departments, would provide invaluable information about demand and supply equilibrium and other marketing indicators. Data compiled by time periods and geographical regions would permit departments to accomplish planning and investigation merely by looking at trends and making comparisons at a fairly uncomplicated level. Many ratios and computer plots of theft and recovery data can be calculated continuously by the computers available for use by departments of all sizes.

The most effective investigatory strategy available to law enforcement agencies is that of incorporating the study of marketing concepts and practices into the training of investigators. Investigators must be more aware of marketing theory than are the thieves and fences in order to combat the traffic in stolen goods.

C. *Summary*

Marketing theory has promise as an instrument of law enforcement allowing an attack on organized crime by attacking their marketing practice. Many concepts from marketing theory can be utilized for blocking and investigating stolen-goods traffic and can provide substantial enrichment to other investigative approaches.

Thieves and fences make significant marketing oriented decisions as they conduct the distribution of stolen goods. They can be expected to use many of the same strategies and procedures in solving those problems utilized by legitimate businessmen.

The process of serving as a middleman in the distribution of stolen goods is a very complex one requiring rational decisionmaking by thieves and fences. Each function — buying, selling, transporting, storing, financing, risk-taking, information gathering, and standardization — is subject to study by law enforcement agencies. A recent staff report of the U.S. Senate Select Committee on Small Business notes that:

> In summary, by obstructing the flow of stolen goods (1) the

selling price is raised and the incentive for buying is lessened, and (2) the thief's risk/profit margin is unfavorably shifted.[14]

The general economic awareness of thieves and fences provides a reference point for many law enforcement officials. These criminals' working knowledge of the laws of supply and demand and the market structure permit them to engage in a significant amount of profitable crime.

The reasons for specialization in the theft or fencing of a particular type of stolen goods are varied. As noted earlier, there are frequently psychological and social reasons for such preferences. More germane to this study, however, are the varied economic motives and reasons for specialty and structure in a particular product and market segment. There is a certain amount of naiveté on the part of some administrative and law enforcement officials regarding these economic considerations.

One of the major difficulties in conducting this research arose from the nonavailability of individuals knowledgeable about fencing operations. Penitentiary inmates and law enforcement officials alike are familiar with the operations of thieves; however, very few really understand the methods and marketing practices of the fence. Consequently, the most cogent fact to come from this study is that both research and action emphasis should be put on fencing operations in order to thwart thievery.

The willingness of the thief to bear risk during transactions in stolen goods suggest an entrepreneurship advocated in our society. The challenge now is to make law enforcement officials as aware of the dynamics of the market situation as are the thieves.

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14 SENATE SELECT COMM. ON SMALL BUSINESS, 92D CONG., 2D SESS., AN ANALYSIS OF CRIMINAL REDISTRIBUTION SYSTEMS AND THEIR ECONOMIC IMPACT ON SMALL BUSINESS 18 (Comm. Print 1972).